Toffoloni v. LFP Publishing Group, LLC
Doc. 3 Att. 1

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA

MAUREEN TOFFOLONI, as Administrator and Personal Representative of the ESTATE OF NANCY E. BENOIT, Plaintiff	)	Civil Action File No. 1:08-cv-00421-TWT
v.	)	
LFP PUBLISHING GROUP, LLC, d/b/a Hustler Magazine, MARK SAMANSKY, an individual, and other distributors and sellers of Hustler Magazine, as Defendants X, Y, and Z, Defendants.	)	

AFFIDAVIT OF DONNA HAHNER

STATE OF CALIFORNIA,

COUNTY OF LOS ANGELES.

Personally appeared before the undersigned officer duly authorized by law to administer oaths, DONNA HAHNER, who being first duly sworn, deposed and said as follows:

1.

My name is Donna Hahner. I am over twenty-one (21) years of age and I am competent to make and give this Affidavit, and do so from personal knowledge.

Dockets.Justia.com

2.

I am currently employed by defendant LFP Publishing Group, LLC ("LFP") as a Vice-President.

3.

Hustler Magazine lawfully acquired the images that are the subject of the above-captioned lawsuit from an individual named Mark Samansky, who warranted and represented himself to be the sole owner and creator of the videotape from which the images were obtained.

4.

Hustler Magazine is published 13 times per year (12 monthly issues and one holiday issue) for 52 weeks. Approximately 333,594 copies of the March 2008 issue of *Hustler Magazine* in which the article and photos that are the subject of the above-captioned lawsuit appear were published and disseminated to the U.S. public more than a month ago in the normal distribution cycle. Additional copies of the article and photos from the March 2008 issue were distributed in Canada and the United Kingdom by independent licensees of the HUSTLER trademark that are not affiliated with LFP or any of its affiliates.

5.

The March 2008 issue of *Hustler Magazine* is no longer in active distribution or circulation in the U.S., and the magazines containing the article and photos will soon come out of circulation in Canada and the United Kingdom. The April 2008 issue of *Hustler Magazine*, which does not contain the article or photographs complained of in the above-captioned lawsuit, is the current published issue which has been delivered to subscribers and is available for purchase at retail and distribution locations in the U.S.

6.

All photos of Nancy Benoit have been removed from internet websites defendant LFP controls. LFP does not intend to include such photos in any future issues of *Hustler Magazine*, including special issues (such as a *Best of Hustler 2008* or similar retrospective-type issue). LFP does not intend to authorize or license republication of the photos of Ms. Benoit by any other individual(s) or entities.

Further affiant sayeth not.

Donna Hahner

Sworn to and subscribed before me
this 7th day of February 2008.

Notary Public

ACKNOWLEDGMENT

State of California
County of Los Angeles)

On 2-7-08 before me, Holly E. Brown
(insert name and title of the officer)

personally appeared Donna Hahner,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

HOLLY E. BROWN
COMM. # 1644543
NOTARY PUBLIC - CALIFORNIA
LOS ANGELES COUNTY
MY COMM. EXP. FEB. 11, 2010

Signature Holly E. Brown (Seal)